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PLEASE RESPOND TO:

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March 20, 2008

VIA ELECTRONIC FILING and UPS GROUND SERVICE

Hon. Esther Salas, U.S.M.J.
United States District Court for
the District of New Jersey
50 Walnut Street, Room 2060
Newark, New Jersey 07101

Re: *N.V.E., Inc. v. Jesus Palmeroni, et als.*
Docket No.: 2:06-CV-05455 (HAA) (ES)

Dear Judge Salas:

This office, together with the firm of Green, Savits & Lenzo, LLC, represents defendant/third party plaintiff Jesus Joseph Palmeroni in this action. I write in regard to the proposed order sent to you by counsel for the plaintiff, N.V.E., Inc., and third party defendants, Messrs. Occhifinto and Orcutt (together, the "NVE Parties").

Paragraph 4 of Your Honor's Pretrial Scheduling Order of December 19, 2007, a copy of which is attached hereto, required the parties to exchange their responses to each other's interrogatories and demands for production of documents by February 1, 2008. Mr. Palmeroni's responses were duly provided by that date; the responses of the NVE Parties have however not yet been supplied as of this writing. Accordingly, in my March 17, 2008 letter to counsel (a copy of which is attached) responding to his telephoned request for consent to a 60-day discovery extension, I specifically noted our concern that unless the NVE Parties were directed to provide responses by a date certain, they "may continue to ignore their obligations in the

Hon. Esther Salas, U.S.M.J.
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action." The form of proposed order submitted to you, which merely substitutes "March 31, 2008" as an interrogatory response deadline for the February 1, 2008 deadline appearing in your December 19 order, does little to discourage the NVE parties from ignoring the new deadline as the old one was ignored.

Accordingly, we insisted on a date certain by which the NVE parties must respond, with a 60-day discovery period to run from that date. Counsel's proposed order eviscerates this linkage between provision of the NVE Parties' responses and commencement of a 60-day period in which other discovery may proceed. That result appears to us inequitable, especially as the NVE Parties have now been in possession of Mr. Palmeroni's responses for almost two months.

I therefore attach a form of proposed order for the Court's consideration that I believe more accurately reflects the terms of the consent tendered. We thank Your Honor for your consideration of these issues.

Respectfully submitted,

s/ Neil Grossman
Neil Grossman

cc: (by email)
Mr. Jesus Joseph Palmeroni
Glen D. Savits, Esq.
Robert J. Basil, Esq.
David G. White, Esq.

Samuel J. Samaro, Esq.
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Counsel for Plaintiff,
N.V.E., Inc., and
Third-Party Defendants,
Robert Occhifinto and Walter Orcutt

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

N.V.E., INC.,

Plaintiff,

v.

PALMERONI, et al.,

Defendants.

CIVIL ACTION NO. 06-5455
(HAA-ES)

PRETRIAL SCHEDULING ORDER

THIS MATTER having come before the Court for a telephonic scheduling conference on December 3, 2007; and for good cause shown,

IT IS on this 18th day of December, 2007,

ORDERED THAT:

1. **Fact Discovery Deadline.** Fact discovery is to remain open through April 8, 2008. All fact witness depositions must be completed by the close of fact discovery. No discovery is to

be issued or engaged in beyond that date, except upon application and for good cause shown.

2. **Motions to Add New Parties.** Any motion to add new parties, whether by amended or third-party complaint, must be returnable no later than February 1, 2008.

3. **Motions to Amend Pleadings.** Any motion to amend pleadings must be returnable no later than February 1, 2008.

4. **Answers to Interrogatories and Document Production.** Interrogatories and Requests for Production of Documents shall be responded to by February 1, 2008.

5. **Telephone Status Conference.** There will be a telephone status conference before the undersigned on April 16, 2008 at 11:00 a.m. ~~12:00 p.m.~~. The conference call is to be initiated by plaintiff's counsel. One week prior to the conference, each party must submit a confidential memorandum to the Court [via facsimile (973) 645-2469], not to exceed five pages summarizing the relevant facts, the respective legal positions, status of the case and the client's position on settlement.

6. **FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER OR ANY SUBSEQUENT SCHEDULING ORDERS ENTERED BY THIS COURT MAY RESULT IN SANCTIONS.**



ESTHER SALAS
UNITED STATES MAGISTRATE JUDGE

BRONSTEIN, GEWIRTZ & GROSSMAN, LLC

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March 17, 2008

VIA EMAIL and U.S. MAIL

David G. White, Esq.
Pashman Stein, P.C.
21 Main Street
Hackensack, New Jersey 07601

Re: *N.V.E., Inc. v. Jesus Palmeroni, et als.*
Docket No.: 2:06-CV-05455 (HAA) (ES)

Dear David:

I write in regard to your recent request for Mr. Palmeroni's consent to a 60-day discovery extension.

As you are aware, responses to written discovery were due on February 1, and Mr. Palmeroni provided his responses by that date. Your clients have yet to comply, and we are concerned that if we consent to the 60-day extension you seek, they may continue to ignore their obligations in the action.

Accordingly, we will consent to the extension you seek on the following terms, subject, of course, to the court's approval:

1. Plaintiff and third party defendants must provide their discovery responses by a date certain;
2. The discovery period shall be extended to the date 60 days from the date such responses have been provided;
3. Consent shall not be deemed to be a waiver of Palmeroni's already existing right to move to compel the disclosure that is already overdue.

David G. White, Esq.
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March 17, 2008

Please advise as to how your clients wish to proceed. Thank you very much.

Very truly yours,

s/ Neil Grossman
Neil Grossman

cc: Mr. Jesus J. Palmeroni
Glen D. Savits, Esq.
Robert J. Basil, Esq.

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- and -

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(973) 695-7777

Attorneys for defendant

JESUS J. PALMERONI

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

-----X
N.V.E., INC., : Civil Action No.:
 : 2:06-CV-05455 (HAA) (ES)
Plaintiff, :
 :
- v. - :
 :
JESUS J. PALMERONI, a/k/a Joseph :
Palmeroni, RONALD SUMICEK, SUNBELT :
MARKETING, ABC CORPORATIONS 1-10 :
and JOHN DOES 1-10, : **PRETRIAL SCHEDULING ORDER**
 :
Defendants. :
 :
-----X
JESUS J. PALMERONI, :
 :
Third party plaintiff, :
 :
- v. - :
 :
ROBERT OCCHIFINTO, :
 :
Third party defendant. :
-----X

THIS MATTER came before the Court on application of
Plaintiff, NVE Inc., with the consent of counsel to defendants;

and for good cause shown;

IT IS on this ____ day of March, 2008,

ORDERED THAT:

1. Outstanding Written Discovery. Plaintiff NVE, INC. and third party defendants ROBERT OCCHIFINTO and WALTER ORCUTT shall respond to plaintiff's interrogatories and demands for production of documents no later than March 31, 2008.

2. Fact Discovery Deadline. Fact discovery is to remain open through the date (the "Discovery End Date") 60 days following the date on which plaintiff NVE, INC. and third party defendants ROBERT OCCHIFINTO and WALTER ORCUTT have actually served their responses to plaintiff's interrogatories and demands for production of documents. All fact witness depositions must be completed by the Discovery End Date. No discovery is to be issued or engaged in beyond the Discovery End Date, except upon application and for good cause shown.

3. Reservation of Rights. Nothing in this Order shall be deemed to supersede any previously ordered discovery deadlines or to preclude any party from moving for an order imposing sanctions on any other party for failure to comply with such deadlines.

4. Telephone Status Conference. The telephone status conference presently scheduled for April 16, 2008 at 11 a.m. is adjourned to _____ at _____.m. The conference call is to be initiated by plaintiff's counsel. One week prior to the

conference, each party must submit a confidential memorandum to the Court (via facsimile 973-645-2469), not to exceed five pages, summarizing the relevant facts, the respective legal positions, status of the case and the client's position on settlement.

5. FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER OR ANY SUBSEQUENT SCHEDULING ORDERS ENTERED BY THIS COURT MAY RESULT IN SANCTIONS.

ESTHER SALAS, U.S.M.J.